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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,059	06/28/2001	William Lawrence Morrison		4209

7590  
William L. Morrison  
1023 W. Crescent Ave.  
Park Ridge, IL 60068

03/02/2004

EXAMINER

ROBINSON, MARK A

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/893,059	<b>Applicant(s)</b> MORRISON, WILLIAM LAWRENCE	
	<b>Examiner</b> Mark A. Robinson	<b>Art Unit</b> 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 10-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2872

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 10-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

These claims recite "a second seating row's seatbacks fixed twelve or more inches forward of said rear end," the back-up mirror being "aft of or even with said vehicle's second seating row's seatbacks" and "nine or more inches forward of said rear end," and an object located "10 to 60 feet away from said vehicle's rear end." Each of these features is not supported by the disclosure as originally filed and thus constitutes new matter.

Art Unit: 2872

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson 2075900.

As noted previously, Jackson shows a vehicle with multiple seating rows, a rear view mirror(13) positioned with mounting means inside the vehicle, and a back-up mirror(14) positioned with mounting means (see fig. 2) inside the vehicle (col. 4 line 32). Note that the second seating row is at least 12 inches forward of the vehicle rear end and the back-up mirror is also at least 9 inches from the vehicle rear end as can be seen in fig. 1 (the spare tire and bumper structure extend at least 9 inches to the rear of the back-up mirror). Further, the back-up mirror is shown in the figures to be "generally" upright, i.e. to lie in a vertical plane.

Jackson shows the back-up mirror to be adjustable via the connections shown in fig. 2, with these connections allowing

Art Unit: 2872

orientation of the mirror generally parallel with a side of the vehicle. However, inasmuch as this orientation is not specifically shown, it would have been obvious to adjust Jackson's mirror in this manner in order to either enable a different field of view or to accommodate drivers of varying height, position, etc.

Regarding claims 11-13, although not taught by Jackson, locating the back-up mirror on a right or left side wall would have been obvious so that the view out the rear window would be unobstructed (i.e. the second mirror would be out of the way).

Regarding claims 14-16, although the shape of the mirror surface is not clear from Jackson's disclosure, both flat and convex surfaces are commonly found in mirrors. It would have been obvious to use either a flat or convex mirror surface in order to enable either an undistorted or enlarged field of view, respectively.

#### ***Response to Arguments***

5. Applicant's arguments filed 11/10/03 have been fully considered but they are not persuasive.

Applicant has argued that Jackson does not anticipate the functions of the present invention, i.e. looking into the mirrors to determine if it is safe to back up. However, these

Art Unit: 2872

are statements of use which in and of themselves do not distinguish the present invention over the prior art. The present invention must be *structurally* distinguishable from the *structure* of the prior art device(s). Regarding applicant's arguments concerning the orientation of the back-up mirror, Jackson's mirror(14) is adjustable about both the horizontal and vertical axes and thus is structurally capable of the claimed orientations. However, since this is not explicitly taught by Jackson, an obviousness-type rejection has been made because adjustment of Jackson's mirror(14) to satisfy the claimed orientation does not constitute a patentable distinction. Concerning applicant's request for constructive assistance, a combination of features which would patentably distinguish the present invention over the prior art is not readily apparent to the examiner.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Martinson, Kometter, Brinkley, Baumgardner, Okamura, and Ben-Ghiath all show various arrangements for vehicle auxiliary mirror devices.

Art Unit: 2872

7. This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee.

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance.

Art Unit: 2872

Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Robinson whose telephone number is (571) 272-2319. Questions concerning patent prosecution or procedure may be directed to the patent assistance center at 1-800-786-9199.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn, can be reached at (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system,




Art Unit: 2872

see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MR

2/19/04

  
MARK A. ROBINSON  
PRIMARY EXAMINER